

SENATE BILL No. 232

DIGEST OF INTRODUCED BILL

Citations Affected: IC 36-7-38.

Synopsis: Land banks. Authorizes a county, consolidated city, or second class city to which the unsafe building law applies to establish a municipal corporation known as a land bank to manage and improve the marketability of distressed real property in the county or city that establishes the land bank.

Effective: July 1, 2016.

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January 7, 2016, read first time and referred to Committee on Local Government.



Second Regular Session 119th General Assembly (2016)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2015 Regular Session of the General Assembly.

SENATE BILL No. 232

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 36-7-38 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2016]:

4 **Chapter 38. Land Banks**

5 **Sec. 1. The following definitions apply throughout this chapter:**

6 (1) "Distressed real property" includes real property in a
7 neglected or unmarketable condition.

8 (2) "Eligible unit" means:

9 (A) a county;

10 (B) a consolidated city; or

11 (C) a second class city;

12 to which IC 36-7-9 applies.

13 (3) "Land bank" means an entity established by or in
14 accordance with an ordinance adopted under section 2 of this
15 chapter.

16 **Sec. 2. (a) The legislative body of an eligible unit may adopt an**
17 **ordinance:**



(1) establishing a body corporate and politic; or
 (2) directing the executive of the eligible unit to organize a nonprofit corporation under IC 23-17;
 as an independent instrumentality exercising essential governmental functions. The primary purpose of an entity established under this subsection is to manage and improve the marketability of distressed real property located in the territory of the eligible unit.

(b) The legislative body shall specify the following in the ordinance:

(1) The name of the entity.

(2) The number of board members, subject to section 3 of this chapter.

(c) The territory of a land bank established by a county is all the territory of the county, except for the territory of any second class city in the county that has established a land bank.

Sec. 3. (a) A land bank is governed by a board of at least seven (7) and at most nine (9) directors.

(b) A director of a land bank appointed under this section must have demonstrated competency in an occupation or discipline that is relevant to the primary purpose of a land bank.

(c) Except as provided in this chapter, the term of a director of a land bank is for three (3) consecutive calendar years.

(d) If a director of a land bank is unable to complete the director's term, the authority that appointed the director shall appoint a successor to serve for the remainder of the incomplete term.

Sec. 4. (a) This section applies to the board of a county land bank established by a county that does not have a consolidated city.

(b) The board of a land bank to which this section applies is comprised of the following:

(1) A director appointed by the county treasurer. A director appointed under this subdivision must be a resident of the county.

(2) A director appointed by the county auditor. A director appointed under this subdivision must be a resident of the county.

(3) Five (5) directors respectively appointed by the executives of the five (5) municipalities in the county with the five (5) largest populations, as determined by the most recent federal decennial census. A director appointed under this subdivision must reside in the municipality of the appointing authority



1 that appoints the director.

2 (4) At most two (2) additional directors appointed, as
3 applicable, in the manner and subject to the requirements set
4 forth in the land bank's bylaws.

5 (c) The terms of the initial directors of a land bank to which this
6 section applies are equal to:

7 (1) the remainder of the calendar year in which the land bank
8 is established; plus

9 (2) a number of additional years equal to:

10 (A) one (1) calendar year, for:

11 (i) the director appointed under subsection (b)(1);

12 (ii) the director appointed under subsection (b)(2); and

13 (iii) the director appointed under subsection (b)(3) by the
14 executive of the municipality in the county that has the
15 largest population;

16 (B) two (2) calendar years, for directors appointed under
17 subsection (b)(3) by the executives of the municipalities
18 that have the second through the fourth largest
19 populations in the county; and

20 (C) three (3) calendar years, for:

21 (i) the director appointed under subsection (b)(3) by the
22 executive of the municipality that has the fifth largest
23 population in the county; and

24 (ii) any directors appointed under subsection (b)(4).

25 Sec. 5. (a) This section applies to the board of a county land
26 bank established by a county that has a consolidated city.

27 (b) The board of a land bank to which this section applies is
28 comprised of the following:

29 (1) Three (3) directors appointed by the county executive. A
30 director appointed under this subdivision must be a resident
31 of the county.

32 (2) Three (3) directors appointed by the legislative body of the
33 county. A director appointed under this subdivision must be
34 a resident of the county.

35 (3) A director appointed by the county auditor. A director
36 appointed under this subdivision must be a resident of the
37 county.

38 (4) A director appointed by the local community foundation.
39 A director appointed under this subdivision must be a
40 resident of the county.

41 (5) At most one (1) additional director appointed, as
42 applicable, in the manner and subject to the requirements set



1 forth in the land bank's bylaws.

2 (c) The terms of the initial directors of a land bank to which this
3 section applies are equal to:

4 (1) the remainder of the calendar year in which the land bank
5 is established; plus

6 (2) a number of additional years equal to:

7 (A) one (1) calendar year, for directors appointed under
8 subsection (b)(1);

9 (B) two (2) calendar years, for directors appointed under
10 subsection (b)(2); and

11 (C) three (3) calendar years, for directors appointed under
12 subsection (b)(3) through (b)(5).

13 Sec. 6. (a) This section applies to the board of a land bank
14 established by a second class city.

15 (b) The board of a land bank to which this section applies is
16 comprised of the following:

17 (1) Three (3) directors appointed by the executive of the
18 second class city. A director appointed under this subdivision
19 must be a resident of the second class city.

20 (2) Three (3) directors appointed by the legislative body of the
21 second class city. A director appointed under this subdivision
22 must be a resident of the second class city.

23 (3) A director appointed by the county treasurer of the county
24 in which the second class city is located, or the county
25 treasurer of the county in which most residents of the second
26 class city reside, if the second class city is located in more than
27 one (1) county. A director appointed under this subdivision
28 must be a resident of the second class city.

29 (4) At most two (2) additional directors appointed, as
30 applicable, in the manner and subject to the requirements set
31 forth in the land bank's bylaws.

32 (c) The terms of the initial directors of a land bank to which this
33 section applies are equal to:

34 (1) the remainder of the calendar year in which the land bank
35 is established; plus

36 (2) a number of additional years equal to:

37 (A) one (1) calendar year, for directors appointed under
38 subsection (b)(1);

39 (B) two (2) calendar years, for directors appointed under
40 subsection (b)(2); and

41 (C) three (3) calendar years, for directors appointed under
42 subsection (b)(3) or (b)(4).



1 **Sec. 7. Except as otherwise provided in this chapter, a land bank**
 2 **is granted all powers necessary, convenient, or appropriate to**
 3 **carry out and effectuate the land bank's public and corporate**
 4 **purposes, which include the power to do the following:**

- 5 (1) Sue or be sued in the land bank's own name.
- 6 (2) Enter into contracts.
- 7 (3) Establish accounts with financial institutions.
- 8 (4) Acquire, lease, improve, repair, renovate, and dispose of
- 9 property.
- 10 (5) Borrow money, including issue bonds.
- 11 (6) Pledge collateral.
- 12 (7) Make investments.
- 13 (8) Hire employees, including an executive director.
- 14 (9) Procure insurance.

15 **Sec. 8. (a) A land bank shall endeavor to acquire a diverse**
 16 **portfolio of properties to enable the land bank to dispose of diverse**
 17 **properties in diverse real estate markets in the county or municipal**
 18 **territory that the land bank serves and, thereby, generate revenue**
 19 **for the land bank in a sustainable manner. A land bank shall**
 20 **acquire property for the purpose of supporting the mission of the**
 21 **land bank.**

22 **(b) A land bank's priorities concerning the disposition of**
 23 **properties from the land bank must support the mission of the land**
 24 **bank, which includes the sale or transfer of properties:**

- 25 (1) for redevelopment that will act as a catalyst for further
- 26 development;
- 27 (2) that support a comprehensive development plan or
- 28 strategic plan for neighborhood revitalization;
- 29 (3) that reduce blight in the community;
- 30 (4) that revitalize or stabilize neighborhoods;
- 31 (5) that will be returned to productive, tax paying status;
- 32 (6) that will be returned to productive uses, including
- 33 development of side lots, green spaces, and gardens;
- 34 (7) that are available for immediate ownership or occupancy
- 35 without a need for substantial rehabilitation;
- 36 (8) that will be used for affordable housing; or
- 37 (9) that will generate operating support for the functions of a
- 38 land bank.

39 **Sec. 9. (a) A land bank shall do the following:**

- 40 (1) Maintain an inventory of real property held by the land
- 41 bank.
- 42 (2) Develop policies, guidelines, and procedures for the



1 acquisition, redevelopment, and disposition of property by
 2 and from the land bank. The policies, guidelines, and
 3 procedures developed under this subdivision must be
 4 formulated in plain language with the objective of being
 5 clearly understood.

6 (3) Make the information described in subdivisions (1) and (2)
 7 available for inspection:

8 (A) at the offices of the land bank during regular business
 9 hours; and

10 (B) on the land bank's Internet web site.

11 (4) Coordinate the land bank's activities with any land use
 12 plans that affect real property held by the land bank.

13 (b) If real property held by a county land bank is located in the
 14 territory of a municipality of the county, the county land bank shall
 15 offer to convey the real property to the municipality before the
 16 county land bank offers, or accepts an offer, to convey the real
 17 property to any other individual or entity. An offer to convey real
 18 property made by a county land bank to a municipality under this
 19 section expires sixty (60) days after the county land bank makes the
 20 offer, unless the county land bank and the municipality agree to
 21 another period.

22 Sec. 10. A land bank may:

23 (1) enter into an interlocal agreement under IC 36-1-7 with
 24 another governmental entity; or

25 (2) otherwise contract with another governmental entity in
 26 Indiana to perform services for the governmental entity.

27 Sec. 11. (a) This subsection does not apply to a consolidated city.
 28 The legislative body of an eligible unit that has adopted an
 29 ordinance to create a land bank under section 2 of this chapter may
 30 not rescind the ordinance that the legislative body adopted under
 31 IC 36-7-9-3, unless the land bank is first dissolved.

32 (b) A land bank does not have authority to exercise the power
 33 of eminent domain.

34 Sec. 12. Within six (6) months after an eligible unit has
 35 established a land bank under this chapter, the eligible unit shall
 36 furnish the land bank with a list of real property:

37 (1) that is located in the territory of the land bank;

38 (2) for which the eligible unit holds:

39 (A) a tax sale certificate issued under IC 6-1.1-24; or

40 (B) a tax deed issued under IC 6-1.1-25; and

41 (3) that is not committed to a redevelopment project or for
 42 another purpose.



At the time the eligible unit furnishes the list to the land bank, the eligible unit shall offer to assign the tax sale certificates and convey the real property described on the list to the land bank at no cost to the land bank. For each tract or item of real property described on the list, the offer expires six (6) months after the offer is made to the land bank, unless the eligible unit specifies a longer period in the offer. If, for a particular tract or item of real property on the list, the land bank accepts the offer, the eligible unit shall assign the tax sale certificate or convey the real property, as applicable, to the land bank at no cost to the land bank. If, for a particular tract or item of real property on the list, the land bank rejects the offer, the eligible unit may dispose of the real property as otherwise provided by law.

Sec. 13. (a) This section applies to the following:

(1) A person who owes:

(A) delinquent taxes;

(B) special assessments;

(C) penalties;

(D) interest;

(E) costs directly attributable to a prior tax sale, if the tax sale occurs before July 1, 2016; or

(F) costs attributable to a prior tax sale or tax delinquency, if the tax sale occurs after June 30, 2016;

on a tract of real property listed under IC 6-1.1-24-1.

(2) A person who is an agent of the person described in subdivision (1).

(b) A person subject to this section may not purchase, receive, or lease a tract that is offered by a land bank in a sale, exchange, or lease under this chapter.

(c) If a person purchases, receives, or leases a tract that the person was not eligible to purchase, receive, or lease under this section, the sale, transfer, or lease of the property is void and the land bank retains the interest in the tract that the land bank possessed before the sale, transfer, or lease of the tract.

Sec. 14. (a) As used in this section, "foreign business association" means a corporation, professional corporation, nonprofit corporation, limited liability company, partnership, or limited partnership that is organized under the laws of another state or another country.

(b) A foreign business association may not purchase, receive, or lease property from a land bank unless at the time the sale, transfer, or lease occurs:



(1) the foreign business association has obtained a certificate of authority from, or registered with, the secretary of state in accordance with the procedures described in IC 23, as applicable; and

(2) the foreign business association is in good standing in Indiana as determined by the secretary of state.

(c) If a foreign business association purchases, receives, or leases a tract that the foreign business association was not eligible under subsection (b) to purchase, receive, or lease, the sale, transfer, or lease of the property is void and the land bank retains the interest in the tract that the land bank possessed before the sale, transfer, or lease of the tract.

Sec. 15. (a) As used in this section, "look back period" associated with a specified year means the period beginning on the first day of the fifth year immediately preceding the specified year and ending on the final day of the second year immediately preceding the specified year.

(b) On or before February 1 of each year, a land bank shall deliver a report to the county auditor and the county treasurer of the county in which the land bank is located in a format determined by the county auditor that shows for each parcel of real property sold or otherwise conveyed by the land bank during the look back period associated with the year:

(1) the year in which the parcel was sold or otherwise conveyed by the land bank;

(2) the parcel number and street address of the real property; and

(3) the grantee of the conveyance.

If the land bank is located in more than one (1) county, the information for each parcel of real property must be segregated by county in the report and the land bank shall deliver the report to the county auditor and the county treasurer of each county in which the land bank is located.

(c) Whenever property taxes are distributed to taxing bodies by a county treasurer, the county treasurer shall reduce the amount of each taxing body's distribution calculated without regard to this subsection by an amount equal to twenty-five percent (25%) of the remainder of:

(1) the part of the taxing body's distribution of property taxes calculated without regard to this subsection that is attributable to real property sold or otherwise conveyed by a land bank during the look back period associated with the



1 year of distribution; minus

2 (2) the part of the amount described in subdivision (1) that is
3 attributable to property taxes:

4 (A) levied for debt service, including lease rental
5 payments;

6 (B) imposed on real property that is part of a brownfield
7 plan;

8 (C) authorized by a referendum; or

9 (D) allocated for use in an allocation area.

10 (d) The county treasurer shall divide the remaining amount of
11 property taxes equal to the sum of the reductions made under
12 subsection (c) among each land bank in the county on the basis of
13 whether the real property on which the property taxes were
14 imposed was sold or otherwise conveyed by the land bank during
15 the look back period associated with the year of distribution. The
16 county treasurer shall distribute a land bank's share determined
17 under this subsection to the land bank without appropriation.

18 Sec. 16. (a) Employees of a land bank are not employees of the
19 eligible unit that established the land bank.

20 (b) The board of a land bank may elect by resolution to provide
21 programs of group health insurance for the land bank's employees
22 and retired employees as provided under IC 5-10-8-2.6.

23 (c) The board of a land bank may elect by resolution to provide
24 retirement and disability benefits for employees, which may be by
25 means of participation in the public employees' retirement fund as
26 provided under IC 5-10.3-6.

27 Sec. 17. A land bank's income is not subject to taxation under
28 IC 6-3-1 through IC 6-3-7.

29 Sec. 18. Notwithstanding IC 6-1.1-10-4, after a land bank
30 acquires title to a parcel of real property, the property tax
31 exemption provided under IC 6-1.1-10-4 terminates for the parcel
32 of real property on the final day of the first uninterrupted sixty
33 (60) month period for which the land bank has leased, or offered
34 to lease, all or part of the parcel of real property to one (1) or more
35 tenants.

36 Sec. 19. A land bank is subject to IC 5-14-1.5 (open door law)
37 and IC 5-14-3 (public records law).

38 Sec. 20. The state board of accounts shall audit the funds and
39 accounts of a land bank as provided under IC 5-11-1-25.

40 Sec. 21. A land bank may not be held liable for damages or
41 subjected to equitable remedies for:

42 (1) breach of a common law duty;



- 1 **(2) a violation of Indiana law; or**
- 2 **(3) a violation of any order, permit, license, variance, or plan**
- 3 **approval;**
- 4 **concerning environmental damage to, or attributable to, a tract or**
- 5 **item of real property held by the land bank.**

